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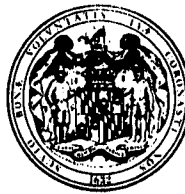
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January 14, 1982

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REPORT ON HOUSE BILL 200

820384

HEALTH-GENERAL ARTICLE

I. PURPOSE AND SCOPE OF CODE REVISION.

The proposed Health-General Article (HB 200) is a product of the continuing revision of the Annotated Code of Maryland undertaken by the Commission to Revise the Annotated Code. This process was inaugurated during the First Extraordinary Session of 1973 and to date has resulted in the enactment of 11 new major articles: Agriculture, Commercial Law, Corporations and Associations, Courts and Judicial Proceedings, Education, Estates and Trusts, Financial Institutions, Health Occupations, Natural Resources, Real Property, and Transportation.

Each of these articles was a formal bulk revision as mandated by the guidelines established in 1970, and included an improved organization, elimination of obsolete or unconstitutional provisions, resolution of inconsistencies and conflicts in the law, correction of inadvertent gaps or omissions in the law, deletion of repetitive or otherwise superfluous language, and general improvement of language and expression.

The same guidelines have been followed in the preparation of the Health - General Article. The basic thrust of the Commission's work is formal; the primary purpose of its work is modernization and clarification, not policymaking. Nevertheless, at some points in its work, the Commission finds it necessary to make recommendations that involve the substance of the law. The Commission has made every effort to assure that its recommendations conform as nearly as possible to the intent of the legislature and the revisor's notes to the appropriate section explain each change made and the reasons for it. The significant issues are addressed in this report.

Issues involving fundamental policy also are noted. Since the resolution of these issues is beyond the purview of the revision process, the Commission has made no attempt to resolve them other than by calling them to the attention of the General Assembly for its independent action.

The general rule of construction applied by the courts to a bulk revision of this nature was stated in Welch v. Humphrey, 200 Md. 410, 417 (1952):

"It is true that a codification of previously enacted legislation, eliminating repealed laws and systematically arranging the laws by subject matter, becomes an official Code when adopted by the Legislature, and, since it constitutes the latest expression of the legislative will, it controls over all previous expressions on the subject, if the Legislature so provides. However, the principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code."

See also Bureau of Mines v. George's Creek Coal and Land Co., 272 Md. 143, (1974); Baltimore Tank Lines v. Public Service Commission, 215 Md. 125 (1957); Welsh v. Kuntz, 196 Md. 86 (1950); Crow v. Hubard, 62 Md. 560 (1884); and Matter of Anderson, 20 Md. App. 31 (1974).

II. FORM AND ORGANIZATION.

The Health-General Article being introduced for the 1982 regular session of the General Assembly conforms to the organizational form and numbering system used in previously revised articles. Accordingly, it will be published in a separate unnumbered volume and, in accordance with Article 1, § 25 of the Code, will be cited by name. This is the third article to be revised in language that is neutral as to gender.

The text of the article is printed in all capital letters as though it were all new material. However, in many instances, comparisons with the present law will show that changes are largely stylistic.

Each section -- or, in some instances, subsection -- of the proposed article is followed by a revisor's note that explains all significant changes made by the revision. These notes also facilitate comparison of the revised article with the law it replaces, and show the relationship between present and proposed Code provisions.

Furthermore, the revisor's notes -- while not a part of the law itself (see Section 6 of HB 200, page 940) -- serve an important function in preserving the intent and substance of the present or "source" law. In Murray v. State, 27 Md. App. 404 (1975), the Court of Special Appeals recognized the importance of revisor's notes not only as a statement of the revisor's intent, but as a statement of legislative intent as well:

"These notes were part of the legislation enacting the revisions explaining to the legislators not only what changes were effected but what their expressed intention was in changing the wording." Murray v. State, 27 Md. App. at 409 (Emphasis in original).

Because of their importance as recognizable elements of legislative history, only minor changes will be made in the revisor's notes in the third reading file bill; See Addendum to this report. Additional, minor changes may be made before publication as a Code Article.

III. HEALTH-GENERAL ARTICLE.

The proposed article includes substantially all provisions of the public general law relating to the Department of Health and Mental Hygiene, except those contained in the Health Occupations Article and those

relating to the environment, which will be included in the Health-Environmental Article.

This article includes provisions for the overall operation of the Department of Health and Mental Hygiene itself, its various programs, the regulation of institutions that provide medical care, and provisions that relate specifically to the care and treatment of individuals, and the prevention of disease.

Each title of the Health-General Article was prepared initially by the Commission staff. Associate Revisor Elizabeth Buckler Veronis was the article supervisor. Other staff members contributing to the article were: Joseph Bernstein, Jean Bienemann, Esq., J. Ross Campbell, Esq., Deborah Cox, Leslie D. Gradet, Esq., Phyllis Helmick, Ralph M. Hughes, Earline Johnson, Lynette Johnson, Jack L. Kenner, Esq., Myriam M. Langley, and Marie Marangoni. The Commission subcommittee, which thoroughly reviewed all drafts, was chaired by Franklin B. Olmsted, Esq., and has included: Avery Aisenstark, Esq., Dorothy A. Beatty, Esq., Bruce C. Bereano, Esq., Walter E. Black, Jr., Esq., Ward B. Coe, Jr., Esq., Edward S. Digges, Jr., Esq., M. Albert Figinski, Esq., Terry F. Hall, Esq., Henry F. Leonnig, Esq., Leslie J. Polt, Esq., Walter A. Rafalko, Esq., Emily M. Rody, Esq., and Thomas G. Young, III, Esq. William H. Adkins, II, Esq. served as Committee Chairman during the early part of the time that the article was in preparation. Also working with the Committee were the following Legislative Consultants: Senators John J. Bishop, Jr., Howard A. Denis, and Arthur Dorman, and Delegates Torrey C. Brown, Raymond A. Dypski, Sheila E. Hixson, and Judith C. Toth. Following extensive Committee review and approval of the proposed article, it was then submitted to the full Commission for further review and approval.

In preparing the Health-General Article, the Commission and its staff have had a great deal of assistance from many people throughout the Department of Health and Mental Hygiene. These people staff the numerous agencies and units and administer the many programs. In addition to them, several assistant attorneys general, and representatives of many private associations have explained many provisions, advised as to administrative practice, and reviewed many drafts of this material. They also have attended Committee and Commission meetings, and made many comments and suggestions. Many of the ideas incorporated in this article were developed through these cooperative efforts. Although space does not permit listing everyone, the Commission and its staff are deeply indebted to these many people and thank them sincerely.

IV. NECESSARY MODIFICATION AND CHANGE.

There are some changes as to which a detailed explanation would be impractical, due to length. There are also many essentially routine changes that are too numerous to detail in this report. The following represents a cross-section of both these types of changes.

A. Unnecessary provisions.

In many instances, the Commission encountered present statutory language that is plainly unnecessary.

Present Article 43B, § 2(j) defines "nonnarcotic drug", but the defined term appears nowhere in that article outside the definition. The Commission, therefore, deleted the definition. See revisor's note to § 9-101 on page 303 at lines 16213-16214.

Present Article 43, § 28A is a typical severability provision. Article 1, § 23 of the Code provides that, except as expressly provided otherwise, all statutes enacted after July 1, 1973 are severable. Article 1, § 23 of the Code will apply to the entire Health-General Article; therefore, as has been done in previous revised articles, severability provisions such as present Article 43, § 28A are deleted.

In several places, provisions call for the spending of funds in accordance with law (Article 43, § 13), or within the annual budgetary appropriation (Article 2C, § 309 and Article 52A, § 11). These provisions are unnecessary in light of Article 15A, § 14, and, therefore, are deleted. See revisor's notes to, e.g., §§ 2-104(i), 6-116, and 8-403.

Other examples of unnecessary provisions include the requirement in Article 43, § 568Ja. that the Health Services Cost Review Commission hold open meetings, which is deleted in light of Article 76A, § 7 et seq.; and the requirement in Article 2C, § 316 that the annual report of the Alcoholism Control Administration "be made public", which is deleted in light of Article 40, § 53, which provides for filing of agency reports with libraries. See revisor's notes to §§ 19-206(b) and 8-204, respectively.

B. Obsolete provisions.

Over the years, some statutory language becomes obsolete. Among the more common examples are various

references to agencies and individual titles that have been changed or deleted through reorganization. For example, obsolete references to Commissioners of Health and Mental Hygiene are deleted; see revisor's note to § 2-105 and the General Revisor's Note to Article. Reference to the Advisory Council on Hospital Construction is deleted; see revisor's note to § 2-106.

References to actions that were required several years ago are deleted as obsolete. These provisions often set out requirements to implement a new procedure, such as the requirement for an individual plan of care for individuals in Mental Retardation Administration facilities by March 1, 1977; see § 7-605. A reference to provision for the Postmortem Examiners Commission in the budget for fiscal year 1981 is deleted as obsolete; see revisor's note to § 5-305. A reference to filing the initial report of the Health Services Cost Review Commission in 1972 similarly is deleted, see revisor's note to § 19-207(b)(6).

The requirement in Article 43, § 14(b)(3) that the vital records functions of Baltimore City be transferred to the State is deleted, as the transfer has been effected; see the General Revisor's Note to Title 4, Subtitle 2.

C. Ambiguous provisions.

The Commission frequently encountered provisions that are potentially troublesome because they have more than one possible meaning. In the present law that is revised as Title 18, Disease Prevention, there are ambiguous references to "health officer", "health authority", and "health commissioner". When it encounters such ambiguities, the Commission attempts to resolve them by using well-established rules of statutory construction to determine what the legislature intended. A leading indicator of legislative intent is actual administrative practice. See State Commission on Human Relations v. Baltimore County, 46 Md. App. 45, 58 (1980); see also Public Service Commission v. Howard Research & Development Corp., 271 Md. 141, 152 (1974). The appropriate health officials in Baltimore City and officials of the Department of Health and Mental Hygiene agreed that these provisions apply to the Baltimore City Commissioner of Health to the same extent as to the health officer of any other county. Therefore, the Commission resolved the matter by using the defined term "health officer". See the General Revisor's Note to Title 18.

In present Article 43, § 789(b), concerning liability for repayment to the State for kidney disease treatment, the

reference to "payment of the costs of medical treatment" is ambiguous as the term "medical" could be construed very narrowly or broadly. This ambiguity was resolved by deletion of the term to leave reference only to "treatment". See revisor's note to § 13-312.

D. Gaps and omissions.

Occasionally, the Commission encountered gaps in the present law, created by unintentional omissions. For example, in the provisions revised in § 5-501 concerning consent for a postmortem examination, there is no provision for occasions when a body is unclaimed and, thus, comes under the control of the Anatomy Board. The Commission added § 5-501(b)(2), which permits the Anatomy Board to give consent, as has been its practice.

Article 43B, § 1(c) referred to drug abusers who are not accused of crimes, and those abusers who are convicted of crimes, leaving a gap as to those who are accused but not yet convicted. That gap has been filled in § 9-102(b)(2)(i).

E. Inconsistent and contradictory provisions.

The Commission also found some provisions in the present law that are inconsistent with or contradict other provisions of law.

An example of an internal inconsistency or contradiction in the present law may be found in the requirements for filing fetal death certificates. Present Article 43, § 14(a)(5) appeared to include all fetal deaths for vital recordkeeping, but the specific provision as to fetal deaths limited the requirement to those that occurred after 20 weeks of gestation. The Commission followed Departmental practice and used the 20-week requirement.

An example of a provision in the present health law that contradicts or is inconsistent with a provision in another article of the Code is present Article 59A, § 35, which relates to civil rights of individuals in mental retardation facilities. The present law excludes those who are declared incompetent by a court in accordance with the Courts' Article. That article does not have any provisions for such a proceeding. In light of provisions in the Constitution and Article 33 concerning voting rights of those under guardianship for mental disability, the reference in Article 59A, § 35 is deleted as inaccurate. See revisor's note to § 7-603.

Throughout the article, references such as "legal guardian", "legally appointed guardian", and "guardian", are changed to "guardian of the person" to conform to the terminology of the Estates and Trusts Article. See revisor's note to § 7-602.

V. GENERAL ISSUES.

A. Introduction.

When the Commission revised the Health-General source law, it found many provisions that were similar to provisions that were revised in the Health Occupations Article. In addition to the occupations licensing boards, there are within the Department of Health and Mental Hygiene numerous other licensing units and advisory boards. Because it is important to always state similar provisions in the same way to avoid unintended differences, the Commission has revised those provisions in the Health-General Article that lend themselves to this approach, in the same standard structure and with consistent terminology as was used in the Health Occupations Article.

It is a precept of the Commission to revise the law in a clear, straightforward manner and, once something is said, to say it the same way every time it is said. Thus, where two present provisions are phrased differently but have the same meaning, their revisions in this bill are the same, and a difference between titles indicates that a distinction is intended.

B. Definitions.

The first section of most titles of the proposed Health-General Article is a definition section in which the definitions are arranged in alphabetical order.

C. Boards.

In general, where a board or council is established, the following sequence of provisions is found: board establishment; board membership; board officers; quorum; meetings, compensation, and staff; miscellaneous powers and duties; and establishment of fees and disposition of funds.

As to the board membership provisions in the present law, the staggered terms of board members often are set out in lengthy sections using many long past dates. To simplify these provisions and to allow for the numerous changes that

have been made to these boards, the Commission used a standard form, which states: "The terms of the members are staggered as required by the terms provided for members of the Board [or Council, Commission] on July 1, 1982."

In light of board practice, the Commission added, where necessary, provisions regarding board membership that state that "[a]t the end of a term a member continues to serve until a successor is appointed and qualifies" and that "[a] member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies". See, e.g., § 8-305(b)(3) and (4) and the accompanying revisor's note on page 267.

The limitation on serving successive terms is clarified in several instances. See, e.g., revisor's note to § 19-203(c)(5) on page 758 at line 40546.

Unless otherwise specified in the present law and in accordance with current practice, where necessary, the Commission added, for clarity, a provision that states, "The manner of election of officers and their terms of office shall be as the Board [or Council] determines". See, e.g., § 8-306(b) on page 268.

In several places, the Commission found that there is no quorum provision for a particular board or council. The Commission did not add such a provision but pointed out that the General Assembly may wish to consider the matter. See, e.g., revisor's note to § 19-305 on page 791.

D. Licensing and Certification.

Throughout the Health-General Article, the Commission used "license" and "licensed" to denote an authorization to perform certain functions or provide services that a person who is not licensed may not perform. In some places, the term "permit" is used to denote the authorization to perform certain limited acts that are related to a particular function and that a person without a permit may not perform. For the reasoning behind the selection and use of these terms, see the General Revisor's Note to Article, on pages 926-927 at lines 49609-49643.

E. Licensing and Certification.

As to hearing provisions, the Commission expressly stated, where applicable, that the Administrative Procedure Act applies. See Article 41, § 244 et seq. Also in light of the legislative intent expressed in Section 3 of Ch. 94, Acts of 1957 to repeal inconsistent provisions, the

Commission, where necessary, used the pattern established in the Administrative Procedure Act, unless a departure from the Administrative Procedure Act clearly was intended.

VI. DISCUSSION OF INDIVIDUAL TITLES.

Title 1. Definitions; general provisions.

As in other revised articles, Subtitle 1 of Title 1 contains definitions that apply throughout the article. Seven of the nine definitions are virtually identical to definitions in Title 1 of the Health Occupations Article.

The definition of "state" in § 1-101 is identical to the definition of "any state" in several other revised articles. The shorter term is used to prevent confusion over the applicability of the definition to terms such as "any other state". In addition, the defined term is used throughout the article in place of the many different descriptions, in the present law, of other jurisdictions in the United States outside of this State. See revisor's note to § 1-101(j) on page 13.

Title 1, Subtitle 2 contains general provisions that set out the procedure for verification and a requirement for compliance with the State workmen's compensation law. Section 1-201, which sets out a standard procedure for verification, is based on procedures called for by Maryland Rule 5c.

Title 2. Department of Health and Mental Hygiene.

Subtitle 1 of this title contains the provisions that relate to the general organization and operation of the Department of Health and Mental Hygiene and the position of Secretary of Health and Mental Hygiene.

The staff of the Secretary includes the Assistant Secretary of Mental Health and Addictions, who has been redesignated, administratively, as the Assistant Secretary for Mental Health, Mental Retardation, Addictions, and Developmental Disabilities. While the Commission generally uses the current title for a position, this redesignation is not used in this article since its adoption might effect a substantive change by precluding a future administrative reorganization to remove part or all of the responsibilities for mental retardation or developmental disabilities. The Commission notes that the General Assembly may wish to consider adoption of the current designation; page 19, lines

The general powers and duties of the Secretary, which appear in § 2-104 of this article, are in many respects similar to the authority conferred on other secretaries of principal departments. There are, however, several unique powers and restraints.

Under § 2-104(b)(2)(i), the Secretary has revisory power over the rules and regulations of the Board of Review of the Department, although that Board is not a unit of the Department. See revisor's note to § 2-104(b) on page 21, lines 1194-1201.

Article 41, § 206(f) and (i) imposes on the Secretary responsibility for the plans, proposals, and projects of units and the functions, staff, and funds of units, respectively. However, the present law contains provisions that appear to except all units of the Department other than the "Department of Health" and "Department of Mental Hygiene" and, as to functions, staff, and funds, also the "Department of Juvenile Services". These provisions are misleading in light of other provisions that, e.g., have created new units over which the Secretary has complete control; See § 7-203 of this article, as to the Mental Retardation Administration.

Therefore, the limitations on the Secretary over plans, proposals, projects, functions, staff, and funds are stated expressly in the provisions that relate to individual units to which the limitations apply. See revisor's note to § 2-104(f) and (h), on page 23 at lines 1292-1319 and pages 24 and 25 at lines 1372-1389 and the General Revisor's Note to Article on page 925 at lines 49538-49575.

Section 2-104(j) is new language added to reflect actual disposition of all but special funds and, thus, avoid unnecessary repetition of this requirement.

The units of the Department are listed in § 2-106 of this article. Specific reference to the Alcoholism Control Administration, the Drug Abuse Administration, the Health Services Cost Review Commission, the Maryland Psychiatric Research Center, the Mental Retardation Administration, the Advisory Board of Juvenile Services, the Advisory Council on Drug Abuse, and the Environmental Noise Advisory Council is added.

Subtitle 2 of this title contains the provisions that relate to the Board of Review of the Department.

The provision on removal for failing to attend meetings is revised to clarify that the provision applies to all meetings, whether regularly scheduled or special meetings. See revisor's note to § 2-203 on page 35 at lines 1948-1960.

The scope of the Board's jurisdiction is clarified in § 2-206(c)(1), by the addition of the reference to a "contested case" and in § 2-206(c)(2), by the exclusion of cases governed under "Article 41, §§ 249 and 255"; see revisor's note on pages 37 and 38 at lines 2081-2089.

The provisions that govern appeals to the Board are revised to reconcile with the requirements of the Administrative Procedure Act, by excluding contested cases from the notice and complaint requirements of § 2-207(b) and (c), and by the addition of a cross-reference to Article 41, § 253 in § 2-207(e)(2). See revisor's note to § 2-207 on pages 40 and 41 at lines 2230 through 2243.

Title 3. County boards of health; health officers.

This title covers the boards of health for each county and the health officers.

The power of a code or charter county to create a board of health to act instead of the governing body is stated expressly. See revisor's note to § 3-201 on page 43 at lines 2360-2362.

Title 4. Statistics and records.

Subtitle 1 of this title combines similar provisions as to confidential research records of the Secretary, the Drug Abuse Administration, and the Juvenile Services Administration.

The penalty for disclosure of these records is made uniform with the possible imposition of a \$1,000 fine. The amount is based on the fine provided for disclosure of the records of the Drug Abuse Administration. The lesser penalties under Article 43, § 1-I(b) and Article 52A, § 8(c) are deleted, since the discrepancies appeared to result from enactment of these provisions at different times, rather than intent to distinguish between disclosure of these records. See revisor's note to § 4-103 on page 53 at lines 2891-2905.

Subtitle 2 of this title deals with vital records.

The definition of "fetal death" is revised to reflect that the provisions in which that term appears require a record only if the fetal death occurs after a gestation period of at least 20 weeks. See revisor's note to § 4-201(e) on pages 54 and 55 at lines 2999-3007.

Since the Comptroller provides the marriage record forms, the overly broad reference to provision of forms by the Secretary is deleted in § 4-203. See revisor's note to § 4-203 on page 58 at lines 3211-3215.

Provisions that govern registration of marriage, divorce, and annulment records appear in Article 43, § 14(b)(4) and Article 62, § 18. These provisions are revised so that § 4-206 of the Health-General Article details the duties of the Secretary and Article 62, § 18 details the duties of the clerks of court. See § 4-206 on pages 61 and 62 and Article 62, § 18 on pages 933-935.

The provisions that govern births, deaths, and, in fetal deaths, deliveries that occur on a common carrier contain an ambiguous reference to arrival of the carrier. Reference to "72 hours after" the occurrence of the birth, death, or delivery is substituted for clarity. See revisor's notes to §§ 4-208, 4-212, and 4-213 on, respectively, pages 63 at lines 3494-3496, 72 at lines 3914-3916, and 73 at lines 3978-3980.

The delayed birth registration provisions are revised to clarify that the final determination is made by the Secretary. See revisor's note to § 4-210 on page 66 at lines 3609-3617.

The provisions for issuance of a birth certificate when the birth occurs outside the United States are revised to clarify the events that must occur in this State. See revisor's note on pages 68 and 69 at lines 3745-3752.

Article 43, § 21, which generally provides for certificates of fetal death, contains provisions that require investigation by the medical examiner. These provisions now appear in § 5-309 of this article.

Section 4-217 generally provides for copies of vital records. However, provisions that relate to the vital records and additional court records of veterans currently appear in Article 17, § 3, Article 43, § 25(g), and Article 96 1/2, § 47. These provisions would be consolidated in the new Article 96 1/2, § 47 on pages 935 and 936.

The Commission notes that the provisions for

duplication of vital records by the Hall of Records, in § 4-222, have not been used.

In § 4-226, the prohibition on providing a vital record to a person is revised to clarify that there be an intent "that it be used by that person to deceive", since the present law suggests that giving a record to any person other than the individual may be prohibited.

Subtitle 3 of this title contains general applicable provisions for medical records.

Title 5. Death.

Subtitle 1 of this title defines "body", to avoid repetition.

Subtitle 2 of this title provides the standards for a determination of when death occurs.

Subtitle 3 of this title provides for the Postmortem Examiners Commission. The separate references to the "Department of Postmortem Examiners" are deleted as unnecessary.

In § 5-303(a)(2) and (3), the membership of the Commission is clarified by the addition of a reference to the "head of the Pathology Department", since these schools have more than 1 professor of pathology.

Section 5-305(d) is revised to reflect that the offices of the Chief Medical Examiner, while still in Baltimore, are in a building that has been transferred to this State.

Baltimore City is expressly excluded from the provisions for deputy medical examiners since the Chief Medical Examiner performs medical examiner functions in the City. See § 5-306(a) on page 100 and revisor's note on page 101 at lines 5440-5446.

As previously indicated, § 5-309 includes provisions for investigations of fetal deaths that now appear in the vital records law. In this revision, investigation is limited to fetal deaths after a gestation period of 20 weeks or more, since the vital record requirement becomes effective only after that period. See revisor's note to § 5-309 on page 104 at lines 5594-5609.

Delivery of evidence to "the State's attorney's designee" is provided for in § 5-309(d) since some medical

examiners deliver evidence to police officers. See revisor's note on page 105 at lines 5642-5645.

The authority of medical examiners to conduct examinations is clarified in § 5-312 on page 108. The revision is based on the Court of Appeals' decision, in Benjamin v. Woodring, 268 Md. 593 (1973), holding a death certificate inadmissible, with regard to an "'opinion'" on cause of death as opposed to the medical cause of death. Please note, also, the deletion of the first paragraph of Article 22, § 5, which confers on the medical examiner "medical functions now devolving upon coroners ...". The medical examiners replaced coroners in 1939 and retention of the reference merely would be confusing. See pages 109 and 110.

Subtitle 4 of this title relates to the Anatomy Board.

Since creation of the Anatomy Board in 1949, bodies have not been "buried at public expense". Therefore, the description of bodies under control of the Board, which under Article 43, § 159, are those "buried at public expense" is obsolete. Section 5-406(a) is revised to reflect those bodies actually coming under the jurisdiction of the Board. See revisor's note on pages 114 and 115 at lines 6141-6152 and 6161-6202.

Subtitle 5 of this title contains miscellaneous provisions for disposition of bodies.

Title 6. Juvenile Services.

Subtitle 1 of this title relates to the Juvenile Services Administration, including the Advisory Board on Juvenile Services.

The Commission notes that the relationship of the Administration and Secretary is unclear. See revisor's note on pages 132 and 133 at lines 7142-7150.

In § 6-118, the reference in Article 52A, § 12(b) to children in "need of supervision" is deleted since CJ § 3-815(e) prohibits detention of those children.

The provisions for youth services bureaus in § 6-122 are revised to clarify that the provisions are for funding, not licensing. See revisor's note to § 6-122 on pages 143 and 144 at lines 7731-7757.

Requirements for liability insurance for foster parents

appear in § 6-131. Subsection (b) of that section is revised to clarify that the Administration sets deductible limits both for actions against a foster parent and actions for damages to other persons. See revisor's note to § 6-131 on page 151 at lines 8157-8160. However, the Commission notes that the liability insurance actually obtained under this section does not conform to its requirements.

Subtitle 2 of this title contains provisions for the House of Good Shepherd.

Subtitle 3 of this title contains the Interstate Compact on Juveniles. No changes are made in the text of the compact. Stylistic changes only are made in the ancillary provisions for implementation of the Compact.

Title 7. Mental Retardation Law.

This title contains provisions for the establishment of the Mental Retardation Administration and for the development and maintenance of facilities and programs for the treatment of mental retardation.

Subtitle 1 contains the definitions that appear throughout the title on mental retardation, provisions on construction of title, and comprehensive evaluations.

The definition of "mental retardation" is noted for the General Assembly's consideration for possible clarification as indicated in revisor's note on pages 172 and 173 at lines 9285-9291.

The definition of "mentally retarded individual" no longer includes the reference to a finding of mental retardation "by comprehensive evaluation". This reference now is set out as a substantive requirement in § 7-104; see pages 177 and 178.

A definition of "State facility" is added to cover "a public facility within the jurisdiction of the Administration"; see page 174.

Subtitle 2 provides for the establishment of the Mental Retardation Administration, the authority of the Secretary over the Administration, the powers and duties of the Director, and the administration of a program of nonresidential service.

In § 7-205, the revision substitutes the Administration for the references to the Department as the designated

agency of this State to reflect that, on creation of the Administration, the responsibility for mental retardation became its responsibility. Also, on pages 184 and 185 at lines 9957-9966, the Commission points out that the funding mechanism does not conform to practice.

Subtitle 3 contains provisions on public facilities and is divided into 3 parts.

Part I of Subtitle 3 contains the general provisions as to the duties of the Director for regulating public facilities.

Part II of Subtitle 3 contains provisions on one type of public facility, i.e., the State facility. It includes provisions as to the administrative head of a State facility and the establishment of citizens' advisory boards for each State facility.

Section 7-308 contains an extended discussion of the substitution of the term "State facility" for the broad term "public facility"; See pages 189 and 190 at lines 10205-10223.

Part III of Subtitle 3 contains the provisions on public group homes.

In § 7-318(b)(1), "community" is substituted for "their county of origin". This substitution is based on the Administration's interpretation of the phrase. See revisor's note on page 197 at lines 10609-10611.

In § 7-318(c)(2)(iii), the revision indicates that a public home is exempt only to the extent that a local zoning rule attempts to impose special conditions. The reference to a public group home being exempt from any zoning rule or regulation is deleted in light of subsection (c)(2)(iii). The deletion is discussed on page 197 at lines 10626-10631.

In § 7-321(a)(1) new language is added to clarify that State acquisition is authorized whether the county or, on default, the State chooses the site. The addition is discussed on page 201, at line 10816-10819.

Subtitle 4 is divided into 2 parts on private facilities and private group homes, respectively.

Part I contains provisions on the licensing and regulating of private facilities.

Part II provides for the licensing and regulating of

private group homes, including the requirement for obtaining a certificate of approval before establishing a private group home.

Subtitle 5 contains provisions on admission of individuals to facilities.

The Commission notes that the admission provisions of former 59A, §§ 10 and 11 are ambiguous; see pages 221-223 at lines 11936-11999. Subtitle 5 contains 2 separate admission procedures for admission to a State facility or admission to a private facility. As Article 59A did not provide for admission to public facilities that are not State facilities, Subtitle 5 does not provide for those admissions. The General Revisor's Note to Subtitle 5 points out that there clearly was an intent to provide for one admission procedure, albeit to a State or private facility. Ch. 632, Acts of 1981 as introduced would have accomplished this purpose. However, as a result of amendments to the bill, the § 11 provisions on admission to private facilities were retained.

In § 7-507, the revision substitutes the phrase "admission under this subtitle" for the reference to "involuntary admissions to mental retardation facilities under the jurisdiction of or licensed by the Department". The substitution is discussed on page 221 at lines 11918-11927.

Subtitle 6 contains the provisions on rights of individuals in facilities. It is divided into 2 parts, fundamental rights and records.

In § 7-610, the revision as it refers to individuals, substitutes "evaluated or treated in the facility" for "persons admitted" to avoid the implication that the recordkeeping provisions are limited to residential facilities. The substitution is discussed on page 236 at lines 12661-12669.

In § 7-612, the revision substitutes "mentally retarded individual" for the former defined term "person". The discussion of the substitution is on page 239 at lines 12814-12819.

Subtitle 7 contains the provisions on release and transfer of individuals in a facility.

In § 7-704, the revision substitutes "individual" for "mentally retarded person" to reflect that the admission may be improper because the admittee is not mentally retarded.

The substitution is discussed on page 244 at lines 13115-13117.

Subtitle 8 contains miscellaneous provisions on employees as law enforcement officers and determinations of direct-care staff.

Subtitle 9 contains provisions on prohibited acts, penalties, and civil liability.

Subtitle 10 provides for the short title.

Title 8. Misuse of alcohol.

This title contains the provisions for prevention and control of alcoholism and treatment of alcoholics.

In § 8-104 of this title, the relationship of this title to Title 10, on mental disorders, is set out. However, the Commission questions whether, under the mental health laws, the individual should receive treatment for alcoholism even if that treatment does not result in an improvement of the mental condition of the individual. See revisor's note on page 261 at lines 14008-14010.

The authority of the Secretary, with respect to the Director of the Alcoholism Control Administration, is clarified in § 8-203(a) of this title, by the addition of language patterned after § 9-203, as to drug abuse. See revisor's note to § 8-203 on page 262 at lines 14093-14100. In light of this provision, specific limitations, "with the approval of the Secretary of Health and Mental Hygiene" are deleted as unnecessary. See, e.g., revisor's note to § 8-312 on page 272 at lines 14637-14639.

Under § 8-204(8)(i), the Administration is responsible for submitting its annual report to the General Assembly and Governor. Present Article 2C, § 316(a) simply requires that the report "shall be forwarded". This revision identifies the sender. See revisor's note on page 264 at lines 14171-14174.

In § 8-205(b), language is added to reflect that educational functions of this Administration come under the jurisdiction of the Director of Education and Training in the office of the Assistant Secretary for Mental Health and Addictions. See revisor's note on pages 264 and 265 at lines 14214-14218.

The provisions for membership of the State Advisory

Council on Alcoholism Control are revised to state expressly that the Council has 24 members. See revisor's note on page 267 at lines 14364-14366.

Article 2C, § 502(c)(3) refers to allocation of funds under "agreed upon priorities". For clarity, the duty of the county or intercounty alcoholism advisory council to set the priorities is stated expressly in § 8-316(b)(5). See revisor's note to § 8-316 on page 277 at lines 14878-14881.

Article 2C, §§ 401 and 402 contain requirements for development of a State comprehensive intoxication and alcoholism control plan. Since the State plan has been developed, these provisions could be read as obsolete. However, the Administration has a continuing duty to keep a current plan for the State comprehensive health planning and development plan and, in practice, uses the mechanism set out for original adoption of the State plan. Section 8-401 is revised to incorporate Article 2C, §§ 401 and 402. See revisor's note on pages 278 and 279 at lines 14967-14973.

The requirement for a State treatment and rehabilitation program is stated affirmatively in § 8-402(a). Article 2C, § 302(a) requires this State program to be "available to both males and females". This reference is deleted since there are numerous other categories in which State programs may not discriminate. See revisor's note on page 280 at lines 15053-15059.

The provisions of Article 2C, § 502(e) that provide a broad grant of authority to fund pilot projects are included in § 8-403(c). Since these provisions no longer appear with provisions generally governing local programs, the provision that the funds are above those "regularly funded local ... programs" is deleted as unnecessary. See revisor's note on page 281 at lines 15117-15121.

Legislation enacted in 1981 requires standards for certification of alcohol abuse facilities, after July 1, 1983. Section 8-411(d) reflects this delayed effective date.

Article 2C, § 304 contains cross-references to admission and retention for inpatient care at a facility under "Article 59, § 37", which clearly is erroneous since that provision relates to treatment plans for minors. These references are deleted as erroneous and because no other provision of the mental health laws properly apply. See revisor's note on page 293 at lines 15707-15720.

Title 9. Misuse of drugs.

This title contains the provisions that relate to drug abuse.

Article 43B, § 2(d) and (e) contains definitions of "drug abuse" and "drug abuser". These provisions are reorganized in this revision so that "drug abuse" excludes the taking of a drug under lawful prescription, rather than excluding the individual taking the drug from the definition of "drug abuser". See revisor's note on page 300 at lines 16025-16027. The definitions of "drug addict" and "drug addiction" are reorganized similarly.

In the definition of "drug abuse", reference to "unlawful" use is substituted for the ambiguous reference to "unauthorized" use. See revisor's note on page 300 at lines 16036-16037. This substitution also permits deletion of the word "experimentation", because, together with "misuse", "unlawful" would cover those experimental uses to which the definition seems applicable, but does not encompass, e.g., lawful experimental tests of drugs. See revisor's note on page 300 at lines 16041-16043.

In § 9-204(c)(6) the requirements for submission of the annual report are imposed, in the revision, on the Director. See revisor's note on page 309 at lines 16540-16544.

The role of the Director of Education and Training in the office of Assistant Secretary for Mental Health and Addictions is reflected in § 9-205. See revisor's note on page 310 at lines 16593-16597.

The State Advisory Council on Drug Abuse is identified in § 9-301 as a body "in the Administration". See revisor's note on page 313 at lines 16748-16752.

The duty of local drug abuse councils to set priorities for funding recommendations is stated expressly in § 9-311(5). See revisor's note on page 321 at lines 17171-17174. This revision conforms to the revision of the provisions for county and intercounty alcoholism councils.

Voluntary admissions to treatment facilities are covered in § 9-501. However, the Commission notes that the time limits for approval of an admission and treatment are ignored. See revisor's note on page 328 at lines 17564-17567.

Subtitle 6 provides for commitment proceedings and terms of commitment. This subtitle is divided into parts

that deal with commitment of individuals -- other than defendants and inmates -- on their own petition, commitment on petition of others, commitment of criminal defendants, and commitment of inmates. In each of these parts, substantive requirements of Article 43B, §§ 9 and 10 are repeated, to avoid the numerous -- and erroneous -- cross-references in the current law that incorporate those provisions. See revisor's note on pages 329 and 330 at lines 17590-17628.

Throughout each part, reference to offering "evidence" is substituted for the limited right "to present witnesses" at the trial on commitment, to reflect the apparent intent of the current law. See revisor's notes on page 340 at lines 18203-18205, on page 350 at lines 18718-18720, on page 355 at lines 19001-19003, and on page 362 at lines 19367-19369.

The provisions for inpatient care after commitment appear in § 9-648. These provisions appear to distinguish between the review of the commitment of inmates and criminal defendants and commitment of other individuals. These distinctions are retained. See revisor's note on page 367 at lines 19607-19630.

Subtitle 7 contains special provisions for short-term commitment, for evaluation, of individuals who are charged with criminal offenses.

Subtitle 8 contains miscellaneous provisions on liability and privileged information.

Subtitle 9 contains a prohibited act and penalty.

Subtitle 10 is the short title.

Title 10. Mental Hygiene Law.

This title contains provisions for the establishment of the Mental Hygiene Administration and for the development and maintenance of facilities and programs for the care and treatment of mental disorders. It is patterned after Title 7 on Mental Retardation. Any parallel issues raised in the staff report to Title 7 are not repeated, but will be addressed orally.

Subtitle 1 contains the provisions on definitions, legislative policy, construction, and scope of title.

In the definition of "admission", the phrase "accepted

as a resident in" is substituted for "admitted as an inpatient" to avoid the circular definition of "admission" as "admitted". This substitution conforms to the definition of "admission" in Title 7. See revisor's note on page 377 at lines 20114-20118

The definition of "mental disorder", line 20174, merges the former separate definitions of "mental disorder" and "mental illness". See pages 378-379. Note that for emergency admissions, the term "mental disorder" is defined differently; pages 447 and 448.

In § 10-104, line 20362, the phrase "a person who is licensed under Title 19 of this article" is substituted for "hospital or facilities licensed under the provisions of Article 43". See revisor's note on page 381 at lines 20362-20363.

Subtitle 2 contains provisions on the establishment of the Administration, the authority of the Secretary over it, and the powers and duties of its Director, and provides for nonresidential services and a State Comprehensive Mental Health Plan.

Subtitle 3 contains provisions on the advisory bodies.

Subtitle 4 contains provisions on public facilities and is divided into 3 parts. See the discussion in the General Revisor's Note, on page 495 at lines 26539-26569, as to identifying public facilities, other than State facilities.

Part I provides for the supervising duty of its Director as to public facilities.

Part II contains provisions as to State facilities and the citizens' advisory boards for each State facility.

In § 10-406(a) additional facilities are listed to reflect State facilities now directly controlled by the Administration. The substitution is discussed on page 402 at lines 21501-21506.

Part III contains provisions on the Maryland Psychiatric Research Center. The provisions on the Center are set out in a separate part to indicate that the Center is excluded from certain provisions that apply to other State facilities. See also § 10-405 on page 401.

Subtitle 5 contains provisions on private facilities and is divided into 2 parts.

In § 10-506 the reference to "Department" as the licensing entity is retained, albeit the Article 59, § 3(d) definition of "Department" means the Administration; see revisor's note on page 420 at lines 22538-22542.

In § 10-610(a)(1), the defined term "State facility" is substituted for the references to "those facilities established under Article 59, § 31(a)". This substitution includes additional State facilities -- subsection (a)(2)(i) is added to clarify that 2 existing State facilities are not subject to the admission restrictions of subsection (a); see revisor's note on page 441 at lines 23682-23692.

Section 10-610(c) is revised so that all of the usual limitations on admission of a minor to a facility apply; see revisor's note on page 441 at lines 23696-23705.

Section 10-632 provides for notice of a hearing on involuntary admission. However, this title does not contain any procedural provisions for this hearing; see revisor's note to § 10-633 on page 458 at lines 24563-24568.

Subtitle 7 contains provisions on rights of individuals in facilities.

In § 10-709(a)(1), the reference "under this title" is substituted for "under ... this subtitle" to cover emergency admissions; see revisor's note on page 466 at lines 25028-25031.

Subtitle 8 contains provisions on release and transfer.

Section 10-802 is revised to apply to the holding of an individual by a facility, public or private; see revisor's note on pages 467 and 468 at lines 25088-25096.

Section 10-806(c)(5) is revised to apply to the release of an individual from a State facility, since there appeared to be no intent to exclude the individual from examination requirements; see revisor's note on page 474 at lines 25419-25422.

In § 10-808(d)(3), the reference to an individual "committed under Title 12 of this article" is substituted for the reference to an individual "acquitted of the charge solely on the ground of insanity", to include individuals committed because of incompetency to stand trial; see revisor's note on page 477 at lines 25569-25578.

Subtitle 9 contains miscellaneous provisions and is divided into 3 parts: community mental health services,

programs for hearing impaired individuals, and enforcement.

Subtitle 10 contains provisions on prohibited acts, penalties, and civil liability.

Subtitle 11 provides for the short title.

Title 11. Interstate Compact on Mental Health.

This title contains the Interstate Compact on Mental Hygiene. No changes are made in the text of the compact. Only stylistic changes are made in the ancillary provisions for implementation of the Compact.

Title 12. Incompetency and Insanity in Criminal Cases.

This title contains the provisions for determinations on competency and sanity in criminal cases and disposition of individuals after those determinations.

Currently, these provisions appear in the Mental Hygiene Law, but this placement fails to recognize that, in accordance with 1980 legislation, mental retardation may be a basis for a finding of incompetence or insanity. See revisor's note to § 12-101(f) on pages 506 at lines 27136-27144 and 27158-27162.

In § 12-101(c) and (d), the terms "incompetent to stand trial" and "insane" are defined to avoid repetition.

In § 12-104(a) and (b), the references "after a hearing" are added to clarify that hearings are held on the competency issue. See revisor's note on page 511 at lines 27409-27413.

In § 12-104(c), references to the release under "§ 7-705 ... of this article" are added to reflect that the provisions of § 10-805 of this article do not apply properly if incompetence is found due to mental retardation. However, the Commission notes that incompetence may be the result of both mental retardation and a mental disorder and neither § 7-705 or § 10-805 would encompass both conditions. See revisor's note on pages 511 and 512 at lines 27422-27426.

Under § 12-109(c)(1)(ii)2. and 3., the report on the competence and sanity of a defendant will be provided to the State's attorney and defense counsel, without the necessity of a court order. See revisor's note on page 516 at lines

The Commission notes that, under § 12-111(c)(2), transcription of the recording of the hearing before the Department's hearing officer appears to be prohibited unless the court orders transcription. This prohibition varies from practice. See revisor's note on page 521 at lines 27918-27928.

The Commission also notes that § 12-115(b)(4)(iii) enables the court to revoke a conditional release although application for revocation is not authorized expressly and the findings otherwise required for revocation are not stated. Therefore, this power may have been included inadvertently. The scope of § 12-115(b)(4)(i) also is unclear. See revisor's note on page 528 at lines 28259-28273.

Title 13. Miscellaneous Health Care Programs.

Subtitle 1 of this title provides for regulation of hereditary disorder programs under a State Commission on Hereditary Disorders.

The prerequisites for adoption of rules and regulations are clarified in § 13-109(b)(2). See revisor's note on page 543 at lines 29030-29035.

Section 13-109(e)(1) requires information to be given to an individual before participation, although Article 43, § 818(h) refers to "participants", to give effect to the requirement that participation be "voluntary".

Subtitle 2 of this title contains provisions for State and county high blood pressure programs under a State High Blood Pressure Commission.

Subtitle 3 of this title provides for a State kidney disease program under a State Commission on Kidney Disease.

In § 13-302(a)(3), the findings are modified to reflect that deaths from lack of money for treatment have been stopped. See revisor's note on page 553 at lines 29546-29550.

In § 13-307(c)(1), the scope of the Commission's standards for patients is clarified. See revisor's note on page 559 at lines 29855-29865.

The procedures for acceptance for treatment and

certification for payment are clarified in § 13-310. See revisor's note on page 560 at lines 29953-29954.

Subtitle 4 of this title relates to physical fitness and provides for a State Commission and county commissions.

In § 13-402, the definition of "physical fitness", in Article 41, § 345, is included in the purpose section, to reflect the apparent intent of the broad definition. See revisor's note on page 566 at lines 30235-30240.

Title 14. General Day Care.

Subtitle 1 of this title contains provisions regulating day care for children.

The Commission notes that the manner in which this subtitle and other provisions that regulate child care are to be reconciled is unclear. See revisor's note on page 578 at lines 30932-30938.

Subtitles 2 and 3 provide for day care of elderly individuals and medically handicapped adults. These provisions are very similar, with the exception of participation by the Office on Aging as to elderly individuals. In practice, the Department has a consolidated license so that a day care center may serve elderly individuals, medically handicapped adults, or both. See the General Revisor's Note to Title on pages 596 and 597 at lines 31947-31958.

Title 15. Assistance Programs.

This title contains the provisions for the Maryland Medical Assistance Program and additional miscellaneous provisions for State assistance for the provision of health care services.

The definitions in § 15-101 are new and are added to avoid repetition.

Section 15-102, while it deals with indigent and medically indigent individuals, is not part of the Medical Assistance Program.

Section 15-106 requires review of services under the Program. The third and fourth sentences of Article 43, § 42(c), which refer specifically to review of drug prescribing practices, are deleted as obsolete, but also as

unnecessary in light of the general requirements of this section. See revisor's note on page 602 at lines 32248-32254.

Section 15-108 provides for field verification of Program participants and appeals from the results. This section is revised to reflect that, in practice, 2 permanent boards exist to hear these appeals.

Title 16. Reimbursements and Collections.

Article 43, § 601 contains general provisions for the Department and, to some extent, counties and grantees to recoup the costs of care. These provisions are incorporated, by reference, into the Mental Health Law and Mental Retardation Law, with certain modifications, into a provision for juvenile screening, and into clinical laboratory provisions. All of these provisions are revised together in this title.

Subtitle 1 contains generally applicable definitions and legislative policy. As noted, several of the definitions are new and are added to avoid repetition.

Subtitle 2 contains the basic provisions for setting charges, determining ability to pay, liability for payments, collections, and alternative procedures. It also contains the juvenile screening and laboratory provisions.

Subtitles 3 and 4 contain, respectively, special provisions for individuals with mental disorders and mentally retarded individuals.

In § 16-101(f), similar definitions of "responsible relative" are combined. The definition of "responsible relative" in Article 59A, § 3(t) does not include, expressly, the child of a recipient of services. However, since certain children are granted an exemption from liability, the absence of an express reference appears to be an oversight. It is corrected by the definition in § 16-101(f). See revisor's note on page 624 at lines 33346-33351.

Section 16-202(a) is revised to clarify the scope of the investigation of a chargeable person. See revisor's note on page 627 at lines 33527-33534.

Section 16-203(d)(1) is revised to indicate that the 6 months period for retroactive payment begins with the determination of the Department, in accordance with

practice. See page 630 at lines 33661-33669.

Section 16-302 is conformed to § 16-406, by the deletion of the word "reasonable". See revisor's note on page 635 at lines 33948-33951. Both sections are revised to provide for subrogation. See revisor's note on page 636 at lines 33955-33959.

The special provisions for the mental hygiene and mental retardation laws include procedures for application of abandoned patient property to the outstanding costs. The General Revisor's Note to this title contains a discussion of problems that are inherent in these procedures; see page 644 at lines 34397-34411.

Title 17. Laboratories.

Subtitle 1 of this title provides for public health and clinical laboratories under the Department.

Note the use of the term "communicable disease" in §§ 17-102(a) and 17-103(b)(3). See revisor's note on page 646 at lines 34513-34521.

Section 17-103 contains a general provision enabling the setting of fees and prohibitions on fees for specific services. This revision reflects the apparent intent of Article 43, § 35, which refers both to affirmative action to set fees and to exempt services from fees. See revisor's note on page 648 at lines 34584-34612.

Subtitles 2 and 3 deal with medical laboratories and tissue banks. These provisions are derived from Article 43, § 34, but bifurcated for clarity, since separate permits are issued. See the General Revisor's Note to Subtitle 3 on pages 675 and 676 at lines 36082-36115, which also describes the distinction in these laws.

Article 43, § 34 refers to standards and qualifications of laboratories and tissue banks. These subtitles are revised to clarify that standards are set for the establishment and depend on the classes of services to be offered. Qualifications are set for the director. Both the standards and qualifications must be met for the permit to be issued. See, e.g., revisor's note on page 654 at lines 34910-34930.

In the parallel §§ 17-208 and 17-308, language is added to reflect the contents of the permits, since any changes in the matters stated in the permit require issuance of a new

permit. These matters include the name of the director and scope of services. See revisor's note on pages 656 and 670 at lines 35044-35046 and 35801-35803, respectively.

Subtitle 4 of this title contains similar provisions for medical test units. However, no permits are issued under this subtitle since the standards have not been adopted. See revisor's note on page 677 at lines 36163-36165.

In § 17-401(b), the definition of "medical test unit" is modified to avoid overlapping the provisions for medical laboratories and, thus, imposing a dual permit requirement.

Title 18. Disease Prevention.

This title contains the provisions that relate to disease prevention.

Subtitle 1 contains the general responsibility and powers of the Secretary with respect to investigations into disease and mortality, rulemaking, right of entry, and compilation of information.

In § 18-106, the interaction between the Secretary and the Baltimore City Commissioner of Health is clarified. See revisor's note on page 690 at lines 36885-36893.

Subtitle 2 covers reports of diseases and preventive actions on those reports.

Throughout this subtitle, the examples of reportable diseases are deleted. See revisor's notes on pages 693-694 at lines 37072-37076, page 695 at lines 37157-37159, page 698 at lines 37297-37300, and page 702 at lines 37548-37549.

Also several sections that relate to reports of diseases and certain preventive measures are deleted. See revisor's note: on page 694 at lines 37085-37090, as to Article 43, § 56; on page 704 at lines 37638-37640, as to Article 43, § 77; and on page 709 at lines 37899-37919, as to Article 43, §§ 60, 61, and 99.

In § 18-201(a), reference to the residence of the patient is substituted for the reference to the place where the "disease exists". See revisor's note on page 693 at lines 37059-37063.

The revision of § 18-205(h) cures the title problem in S.B. 223 (1980). See revisor's note on page 701 at lines

37455-37462.

Subtitle 3 contains the provisions that relate specifically to cancer, diseases of pregnancy and infancy, rabies, and tuberculosis.

The revisor's note on page 712 at lines 38093-38097 raises a question as to implementation of § 18-303(e).

In § 18-308, Article 27, § 273 and Article 43, § 38B are merged to provide a single section for gonococcal ophthalmia neonatorum.

In § 18-317, reference to "antirabies treatment" is substituted for the limited and obsolete reference to "Pasteur treatment".

Section 18-324(b) and (c)(2) refers to detention of certain individual's with tuberculosis. The Commission notes that these provisions authorize indefinite detention. See revisor's note on page 725 at lines 38804-38807.

Subtitle 4 deals with liability for drugs, vaccines, and blood.

Subtitle 5 contains prohibited acts and penalties.

Title 19. Health Care Facilities.

Part I of Subtitle 1 of this title contains the comprehensive health planning law.

Present Article 41, § 59D contains numerous, lengthy definitions of terms that appear only once or twice in the other provisions of the planning law. In this revision, the substance of those defined terms is incorporated into the provisions.

The provisions of Article 43, §§ 874 through 877 are revised in § 19-110 since the regional health systems agencies authorized in those sections are for purposes of the planning law set out in Article 41, §§ 59C through 59L.

In § 19-110 and other sections of this subtitle, those provisions that set forth specific duties of the State agency and council and health systems agencies and that are duplicative of the federal law are deleted, since these provisions are not a complete listing of duties under the federal law. See, e.g., revisor's note on page 743 at lines 39826-39830.

Part II contains provisions for the Secretary to provide help to communities that have a deficiency in general medical or health care facilities or services.

Subtitle 2 of this title contains the provisions for the State Health Services Cost Review Commission.

In § 19-201(d), the current classes of related institutions are substituted for obsolete references. See revisor's note on page 756 at lines 40468-40474.

The scope of § 19-209(b) is clarified by reference to "related institutions". See revisor's note on pages 765 and 766 at lines 40996-41001.

The revision of §§ 19-212(b)(1)(iii) and 19-215(b) cures the title defect in Ch. 752, Acts of 1980. See revisor's note on page 769 at lines 41185-41194, and on page 771 at lines 41311-41315.

The provisions regarding suspension of a proposed rate are clarified by the deletion of Article 43, § 568W(a)(2)(i). See revisor's note on page 778 at lines 41655-41660.

In § 19-221(b), references to "administrative" review are deleted as apparently obsolete references to Board of Review jurisdiction before 1975. See revisor's note on page 780 at lines 41770-41778.

Subtitle 3 of this title deals with licensing and regulation of hospitals and related institutions.

Article 43, § 566(a) suggests that an entity is a "hospital" or "related institution" because the entity provides home health care. The revision of § 19-302(b), clarifies that the provision of services by licensed hospitals and related institutions is regulated under this subtitle. See revisor's note on page 787 at lines 42163-42169.

Section 19-306 is revised to refer to "hospitals", for clarity since this section sets forth the duties of the State Advisory Board on Hospital Licensing. However, the Commission notes that a representative of related institutions serves on the Board and that the Board actually gives advice as to related institutions. See revisor's note on page 792 at lines 42405-42411.

Section 19-308(b)(4) is revised to reflect more

accurately the report submitted to the General Assembly. See revisor's note on pages 794-795 at lines 42552-42557.

Under Part II of this subtitle, approval is required before construction or conversion of or certain other changes in any hospital or related institution. Article 43, § 565B contains provisions as to a hospital to be used as a related institution. These provisions are essentially duplicative and, therefore, Article 43, § 565B is deleted. See revisor's note on page 795 at lines 42589-42594.

In § 19-320, reference to disposition of the application fees in a special fund is deleted as apparently obsolete. See revisor's note on page 800 at lines 42856-42859.

The bases for denial or revocation of a license are clarified in § 19-324. See revisor's note on page 803 at lines 43041-43048.

Part V of this subtitle contains provisions for appointment of a receiver for a nursing home.

In § 19-336(c)(2)(ii), reference to the bond running "to the State" is substituted for the reference to the bond running to the nursing home. See revisor's note on page 811 at lines 43459-43460.

Part VI of this subtitle contains miscellaneous provisions that relate to rights of individuals in hospitals and related institutions.

Sections 19-343, 19-344, and 19-345 are derived from Article 43, §565C, which applies to "skilled nursing facilities and intermediate care facilities". These classifications are obsolete and, therefore, § 19-343(a) is added to reflect the facilities that, in practice, are covered by these provisions. See revisor's notes on page 819 at lines 43838-43850 and on pages 825 and 826 at lines 44161-44171.

Subtitle 4 of this title contains provisions for licensing home health agencies.

The Commission notes that the scope of the current law is unclear -- i.e., whether a licensed home health agency must provide all the services enumerated as "home health care" and whether an entity that does not provide all services is exempted from licensing. See revisor's note on page 843 at lines 45049-45059.

In § 19-404(c)(5), the provisions of Article 43, §§ 878(d)(2) and 881(d) are combined, to provide a single consistent standard for supervision of health care services. See revisor's note on page 846 at lines 45213-45218.

Subtitle 5 of this title relates to the chronic disease centers that are operated under the Secretary.

Throughout this subtitle, numerous provisions for establishing chronic disease centers are deleted as obsolete. See, e.g., revisor's note on page 850 at lines 45466-45469.

Subtitle 6 of this title consolidates provisions that relate to nonretarded developmentally disabled individuals including the provisions for group homes.

In § 19-606(b)(1)(i), the reference to the "community" is substituted for "county of origin", for clarity. See revisor's note on page 863 at lines 46183-46185.

Subtitle 7 of this title relates to the regulation of health maintenance organizations under the joint control of the Secretary and the Commissioner of Insurance.

The scope of the Commissioner's authority is clarified. See, e.g., the substitution of the reference to "other matters covered under this subtitle" for the limited references to "fiscal aspects" and "financial matters" in §§ 19-702(b)(3) and 19-710(k) and the revisor's note on pages 872 and 883 at lines 46664-46667 and 47274-47275, respectively.

Section 19-708(b)(5), which requires disclosure of conflicts of interest, is revised to set forth the means of disclosure. See revisor's note on page 879 at lines 47057-47060.

The Commission notes that in § 19-725 the bases for cancellation of a contract are unclear. See revisor's note on page 894 at lines 47849-47853.

Subtitle 8 of this title relates to facilities for compulsive gamblers.

Section 19-804(a) is revised to reflect that the center required under § 19-803 has been established. See revisor's note on page 902 at lines 48276-48278.

Subtitle 9 of this title contains the provisions for hospices.

Throughout this subtitle, the term "license" and its derivatives are substituted for the references to certification. The substitution is not substantive and is made only to reflect more clearly that the provision denotes an authorization to operate a particular facility that a person who is not licensed may not operate. See, e.g., revisor's note on page 905 at lines 48472-48476.

This subtitle contains, when applicable, the standard language used for the uniform expression of licensing provisions.

Section 19-906(b) is revised to provide for a corporate applicant for a license. See revisor's note on page 906 at lines 48527-48531.

Section 19-910 is revised to provide for license renewal. See revisor's note on page 909 at lines 48679-48687.

Section 19-911(b) is added to provide expressly for a revocation of a license. See revisor's note on page 910 at lines 48726-48730.

The Commission points out that there are no penalties provided for operating a hospice without a license. See revisor's note on page 910 at lines 48776-48777.

Title 20. Miscellaneous Provisions.

Subtitle 1 of this title contains provisions that relate to consent. It is divided in parts. Part I, relates to consent by minors. Part II deals with treatment of disabled individuals who are unable to give consent. Part III contains provisions that relieve a person of liability for taking a blood sample for a law enforcement officer in a criminal investigation.

In § 20-102, the provisions of Article 43, §§ 135 and 135B are combined, thus providing immunity and the power of disclosure to a physician who makes a physical examination of a rape or sexual offense victim to obtain evidence of the crime. See revisor's note on page 913 at lines 48907-48911.

The Commission has raised several questions as to implementation of § 20-103. See revisor's note on page 914 at lines 48970-48984.

Subtitle 2 contains provisions that relate to certain

aspects of abortion, artificial insemination, and sterilization. Again this subtitle has been divided into parts.

Part I relates to the prohibition on abortion referral services for profit.

Part II is reserved for the substantive provisions on abortion. See the General Revisor's Note on pages 920-921 at lines 49320-49368.

Part III relates to information required to be given to a woman before an abortion is performed.

Part IV deals with protection from liability for, refusal to perform, participate in, refer for or submit to an abortion, sterilization procedure, or artificial insemination.

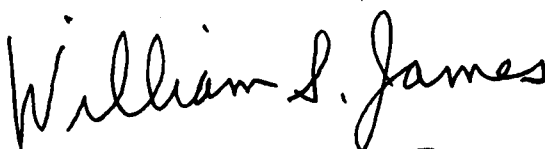
Miscellaneous Sections.

On page 929 of the bill, a new Article 27, § 139 is proposed that would encompass the substance of Article 43B, § 17 and Article 52A, § 10(b), which specifically reference the Article 27 escape provisions.

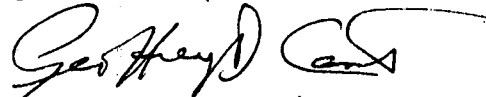
Similarly, on pages 931-933 of the bill, a provision of Article 59, § 16 that provides an inmate with credit for time in a mental health facility is incorporated into the general provisions for credit.

On pages 937-940 of the bill, numerous provisions of the Health Occupation Article are amended to incorporate a prohibition on appeals to the Secretary, which now appear in Article 41, § 206A(c)(2).

Respectfully submitted,



William S. James
Chairman



Geoffrey D. Cant

- 36 - Director

ADDENDUM

Proposed statutory language incorrectly appears in lower case in lines 649 through 652 on page 11 and in lines 23400 through 23403 on page 436. The proposed language will be set forth in upper case in the third reading file bill.

The Commission proposes to make additions to revisor's notes as follows:

(1) After the unnumbered line following line 45507 on page 851, insert the following:

"Similarly, the third and fourth clauses of former Article 43, § 42(d), which authorized the adoption of rules and regulations for administering medical care for the indigent and medically indigent, are deleted as unnecessary in light of § 15-103 of this article, as to the medical assistance program, and in light of the broad rulemaking power of the Secretary under § 2-104(b) of this article."

(2) After the unnumbered line following line 49714 on page 929, insert the following:

"Former Article 43, § 755, which related to an audit by the Greater Laurel Hospital Authority, is deleted as obsolete."

The Commission proposes to make the following corrections in revisor's notes in the third reading file bill:

(1) In line 6903 and the line after line 6903 and in the line after line 6917 and line 6918 on page 128, in each instance, delete "prohibition against" and substitute "limitation on".

(2) In line 10953 on page 203, delete "7-406" and substitute "7-407".

(3) In the line after line 13756 on page 256, delete "are no longer" and substitute "no longer are".

(4) In line 14543 on page 270, delete "9-305(1) and 10-305(1)" and substitute "9-305(b)(1) and 10-305(b)(1)".

(5) In line 15049 on page 280, immediately after

"defined" insert "terms"; and in the line after line 15049, delete "in § 1-101 of this article".

(6) In line 15903 on page 296, delete "second" and substitute "third".

(7) In line 17274 on page 323, immediately before "Drug abuser"" insert a quotation mark.

(8) In line 21397 on page 400, delete "councils" and substitute "committees".

(9) Delete in their entirety lines 22210 through the line after line 22214, inclusive, on page 415.

(10) In line 25727 on page 480, delete "term:" and substitute "terms: "Admission" § 10-101"; and after line 25727, insert ""Release" § 10-101".

(11) In line 30557 on page 571, immediately after "commission" insert a quotation mark.

(12) In line 33261 on page 622, immediately after "Defined terms:" insert ""Comprehensive evaluation" § 7-101".

(13) In line 34072 on page 638, delete the quotation mark immediately before the first "§ 7-101".

(14) In line 35004 on page 656, immediately after "of" insert "the second sentence of".

(15) In line 40066 on page 748, immediately after ""Person" insert a quotation mark.

(16) In line 41070 on page 767, immediately after "(2)" insert ",,".

(17) In line 41383 on page 773, immediately after "§ 19-217(b)" insert "of this subtitle".

(18) In line 42002 on page 784, delete "§§ 1-101 & 19-301" and substitute "§ 1-101".

(19) In line 42548 on page 794, delete "former Article 43,".

(20) In the line after line 42553 on page 794, immediately after "which" insert ",,".

(21) In line 42562 on page 795, immediately

after ""License" insert a quotation mark.

(22) In the line after line 42637 on page 796, delete "the" and substitute "that".

(23) In line 43037 and the line after line 43037 on page 803, delete "former Article 43,".

(24) In the line after line 43275 on page 808, delete "and (m)" and substitute "(m),".

(25) In line 43856 on page 819, immediately after "(6)," insert "and".

(26) In line 44064 on page 824, immediately after "(17)," insert "and".

(27) In the line after line 44444 on page 832, immediately after "(5)," insert "and".

(28) In line 44446 on page 832, delete the second "and" and substitute ", " and immediately after "(2)" insert ", ".

(29) In line 44467 on page 832, immediately after ""account"" insert ", ".

(30) In line 45774 and the line after line 45774, delete "prohibition against" and substitute "limitation on".

(31) In line 46564 on page 870, delete "19-701" and substitute "1-101".

(32) In the line after line 46770 on page 874, delete "Article 43,".

(33) In line 47640 on page 890, delete "and (3)," and substitute ", (3)," ; and in the line after 47640, delete "(f)".

(34) In the line after line 48517 on page 906, delete "former Article 43,".

(35) In line 48761 on page 910, immediately after "is" insert "new language".

(36) In the line after line 50135, the line after line 50147 and the line after line 50160 on page 937, in the line after line 50172, the line after line 50184, the line after line 50196, the line after line 50208, and the

line after line 50220 on page 938, in the line after line 50233, the line after line 50245, the line after line 50258, the line after line 50270, the line after line 50283, and the line after line 50295 on page 939, and in the line after line 50307, the line after line 50319, the line after line 50331, and the line after line 50344 on page 940, in each instance, immediately after "Secretary", insert "in subsection (b)(1) of this section".